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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,907	06/30/2000	RUDI WILFRIED JAN PAUWELS	07619.0006	4853

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EXAMINER

BAKER, MAURIE GARCIA

ART UNIT	PAPER NUMBER
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1639

DATE MAILED: 03/19/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/530,907	06/30/00	PAUWELS et al	TIBO:002

EXAMINER	
Maurie Garcia Baker, Ph.D.	
ART UNIT	PAPER NUMBER
1639	22

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application

Commissioner of Patents

Please see attached Notice of Non-Responsive Amendment.

DETAILED ACTION

Please note: The number of Art Unit 1627 has been changed to 1639. Please direct all correspondence for this case to Art Unit 1639.

Notice of Non-Responsive Amendment

1. The reply filed January 10, 2003 is not fully responsive to the prior Office action because of the following omission(s) or matter(s):

The Restriction Requirement mailed April 24, 2002 and first *Notice of Non-Responsive Amendment* required election of a single invention from Groups I – III and a **further election of species** depending on the Group elected. Applicant elected Group I for examination with traverse in their response. Group I contained a requirement of election of species from four subgroups, as follows (copied from Restriction Requirement, paragraph 15):

*If applicant elects the invention of **Group I**, applicant is required to elect from the following patentably distinct species. Please elect one species from each subgroup below.*

Species of solid support

Applicant is required to elect, for purposes of search, a specific species of solid support from those set forth in the claims. For example, solid support is a detector; solid support is a film or tape; solid support is a compact disk, etc.

Species of analyte (e.g. claim 29)

Applicant is required to elect, for purposes of search, a specific species of analyte to be screened.

Species of semi-solid or liquid medium

Applicant is required to elect, for purposes of search, a specific species of semi-solid or liquid medium.

Species of target (e.g. claim 33)

Applicant is required to elect, for purposes of search, a specific species of target.

In applicant's first response (filed June 20, 2002), election of various species was made; however the election was not deemed to be fully responsive because the species of solid support was set forth in generic terms (Applicant elected "polymer solid support"). In the instant response (filed January 10, 2003), applicant again elects generically, reciting "a solid support whose surface is coated". Also, applicant appears to indicate that claims 17, 19 and 20 are specific and all pending claims are generic to this species (Response, page 3 bottom). This is highly confusing. For example, if claim 20 is specific to the elected species (i.e. solid support is a compact disc), how does claim 12 or 38 read on this solid support?

The examiner specifically required an election of a *specific species* (see above). Thus, an election of one specific species is required. Moreover, applicant's (second) generic election creates confusion regarding which of the instant claims read on the elected species. That is, since the species of solid support is not elected specifically, it is unclear whether (or how) claims such as 5 & 26 directed to shape of the support and claims such as 6, 7, 9, 17 & 19 with respect to properties of the support read on the election. Again, an election of a single, specific species is required.

Also, as stated in the Restriction Requirement (paragraph 19): The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all

claims are generic is considered non-responsive unless accompanied by an election.

2. With respect to applicant's traversal, the following is noted. Applicant refers repeatedly to various sections of Chapter 800 of the MPEP. However, this case is filed under 35 U.S.C. 371 and thus is subject to Lack of Unity requirements. As stated in the Restriction Requirement, the species do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for reasons in paragraphs 17 and 18 of that action. Note that all traversals will be completely addressed in the action that follows applicant's fully responsive election.

3. As stated previously, the examiner notes that the elected species for the other subgroups is sufficient to meet the requirements.

4. See 37 CFR 1.111. *Applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment.*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maurie Garcia Baker, Ph.D. whose telephone number is

(703) 308-0065. The examiner is on an increased flextime schedule but can normally be reached on Monday-Thursday and alternate Fridays from 9:30 to 7:00.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Wang, can be reached at (703) 306-3217. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

A handwritten signature in black ink, appearing to read 'MB' followed by a long horizontal stroke.

MAURIE GARCIA BAKER PH.D
PRIMARY EXAMINER